

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**UNITED STATES OF AMERICA**

**vs.**

**JUSTIN DUANE BAKER (1)**

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**CASE NO. 6:24-CR-00113-JDK**

**REPORT AND RECOMMENDATION  
ON REVOCATION OF SUPERVISED RELEASE**

On January 27, 2025, the Court held a final revocation hearing on a Petition for Warrant or Summons for Offender under Supervision. The Government was represented by Assistant United States Attorney Robert Wells. Defendant was represented by Assistant Federal Defender Jonathan Hyatt.

***Background***

After pleading guilty to the offense of Possession with Intent to Distribute a Controlled Substance, a Class C felony, Defendant Justin Duane Baker was sentenced on October 21, 2021, by United States District Judge Jane J. Boyle, Northern District of Texas. The offense carried a statutory maximum imprisonment term of 20 years. The guideline imprisonment range, based on a total offense level of 15 and a criminal history category of VI, was 41 to 51 months. The Court sentenced Defendant to an imprisonment term of 60 months, an upward departure, followed by a 3-year term of supervised release subject to the standard conditions of release, plus special conditions to include drug aftercare, mental health treatment, and a \$100 special assessment. Defendant completed his term of imprisonment and started his term of supervised release on July 30, 2024. Jurisdiction was transferred to the Eastern District of Texas on September 17, 2024 and the case was assigned to United States District Judge Jeremy D. Kernodle.

### *Allegations*

In the Petition seeking to revoke Defendant's supervised release, filed on September 23, 2024, United States Probation Officer Lupe Saucedo alleges that Defendant violated the following condition of supervised release:

1. **Allegation 1 (mandatory condition 1): The defendant must not commit another federal, state, or local crime.** It is alleged that Defendant committed the new law violation of Aggravated Assault with a Deadly Weapon, a 3<sup>rd</sup> Degree Felony, on or about August 24, 2024, in Van Zandt County, Texas.
2. **Allegation 2 (mandatory condition 3): The defendant must refrain from any unlawful use of a controlled substance. The defendant must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the court.** It is alleged that Defendant tested positive for methamphetamine on or about September 11, 2024.
3. **Allegation 3 (standard condition 3): The defendant must not knowingly leave the judicial district where he is authorized to reside without first getting permission from the court or probation officer.** It is alleged that Defendant traveled outside the Eastern District of Texas to Kaufman County, Texas, on or about September 17, 2024, without permission.

### *Applicable Law*

According to 18 U.S.C. § 3583(e)(3), the Court may revoke the term of supervised release and require a Defendant to serve in prison all or part of the term of supervised release without credit for the time previously served under supervision, if it finds by a preponderance of the evidence that Defendant violated a term of supervised release. Supervised release shall be revoked upon a finding of a Grade A or B supervised release violation. U.S.S.G. § 7B1.3(a)(1). In the present case, Defendant's original offense of conviction was a Class C felony. Accordingly, the maximum imprisonment sentence that may be imposed is 2 years. 18 U.S.C. § 3583(e).

Under the Sentencing Guidelines, which are non-binding,<sup>1</sup> if the Court finds by a preponderance of the evidence that Defendant violated his conditions of supervised release by committing the offense of Aggravated Assault with a Deadly Weapon, a 3<sup>rd</sup> Degree Felony, as alleged in the petition, he is guilty of a Grade A violation. U.S.S.G. § 7B1.1(a). Defendant's original criminal history category was VI. The guidelines provide that Defendant's guideline imprisonment range for a Grade A violation is 33 to 41 months, capped by the statutory maximum of 2 years. If the Court finds by a preponderance of the evidence that Defendant violated his conditions of supervised release by possessing methamphetamine, as alleged in the petition, he is guilty of a Grade B violation. U.S.S.G. § 7B1.1(a). With Defendant's original criminal history category of VI, the guidelines provide that Defendant's guideline imprisonment range for a Grade B violation is 21 to 27 months, capped by the statutory maximum of 2 years. If the Court finds by a preponderance of the evidence that Defendant violated his conditions of supervised release by using methamphetamine or traveling outside of the district without permission, as alleged in the petition, he is guilty of a Grade C violation. U.S.S.G. § 7B1.1(a). With Defendant's original criminal history category of VI, the guidelines provide that Defendant's guideline imprisonment range for a Grade C violation is 8 to 14 months. The grade of the violation having the most serious grade is used to determine the guideline range when there is more than one violation of the conditions of supervision, or the violation includes conduct that constitutes more than one offense. U.S.S.G. § 7B1.1(b).

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<sup>1</sup> The United States Sentencing Guidelines as applied to revocations of supervised release "have always been non-binding, advisory guides to district courts in supervised release revocation proceedings." *United States v. Brown*, 122 Fed.Appx. 648, 2005 WL 518704, slip op. p.1 (citing *United States v. Davis*, 53 F.3d 638, 642 (5<sup>th</sup> Cir. 1995)); see also *United States v. Mathena*, 23 F.3d 87 (5<sup>th</sup> Cir. 1994) (policy statements contained in Chapter 7 of the Sentencing Guidelines applicable to sentencing a defendant upon revocation of supervised release are advisory only.).

### *Hearing*

On January 27, 2025, Defendant appeared for a final revocation hearing. Assistant United States Attorney Robert Wells announced that Defendant and the Government reached an agreement for Defendant to enter a plea of true to Allegation 2 of the petition and to jointly request a sentence of imprisonment for a term of 17 months, with no further term of supervised release. After the Court explained to Defendant his right to a revocation hearing, he waived his right to a revocation hearing and entered a plea of “true” to Allegation 2 of the petition. Defendant requested a recommendation to the Bureau of Prisons to confine him at FMC Ft. Worth due to medical needs.

### *Findings and Conclusions*

I find that Defendant is competent and that his plea and waiver of the revocation hearing was knowingly and voluntarily made. I accept Defendant’s plea and find by a preponderance of the evidence that Allegation 2 of the petition is true. Defendant is guilty of a Grade B supervised release violation. I further find and conclude that Defendant’s term of supervised release should be revoked and that he should be sentenced to imprisonment for a term of 17 months, with no further term of supervised release. The recommended sentence represents a downward departure from the applicable guideline imprisonment range that is warranted due to time already served in custody solely on the allegations included in the petition. Any criminal history monetary penalties previously ordered in the final judgment should be imposed in this revocation, with all payments collected credited towards outstanding balances.

### **RECOMMENDATION**

In light of the foregoing, it is recommended that Defendant’s plea of true to Allegation 2 of the petition be **ACCEPTED** and that Defendant’s term of supervised release be **REVOKED**. It is further recommended that Defendant be sentenced to imprisonment for a term of 17 months, with no further term of supervised release. Any criminal monetary penalties previously ordered

in the final judgment should be imposed in this revocation, with all payments collected credited towards outstanding balances. It is finally recommended that the Court request the Bureau of Prisons to designate Defendant at FMC Ft. Worth.

Before the conclusion of the hearing, the undersigned announced the foregoing recommendation and notified Defendant of his right to object to this Report and Recommendation and to be present and allocute before being sentenced by the Court. Defendant waived those rights and executed a written waiver in open court. The Government also waived its right to object to the Report and Recommendation. It is therefore recommended that the Court revoke Defendant's supervised release and enter a Judgment and Commitment for him to be sentenced to imprisonment for a term of 17 months, with no further term of supervised release.

So ORDERED and SIGNED this 27th day of January, 2025.

  
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K. NICOLE MITCHELL  
UNITED STATES MAGISTRATE JUDGE